

June 20, 2005

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 10554

**RE: 2 GHz MSS Spectrum
Response to the TMI/TerraStar and CTIA *Ex Parte* Submissions in IB
Docket Nos. 99-81, 02-34, 00-246 & ET Docket No. 00-258**

Dear Ms. Dortch:

Globalstar LLC ("Globalstar") submits the following in response to the letter from TMI Communications and Company Limited Partnership and TerraStar Networks, Inc. ("TMI" and "TerraStar")¹ and the *ex parte* presentations filed by CTIA² and ICO Satellite Services G.P. ("ICO")³ in the above-captioned proceedings. As discussed below, the Commission should postpone any decision concerning the future distribution or possible reallocation of currently unused 2 GHz mobile satellite service ("MSS") spectrum until it decides Globalstar's pending petition for reconsideration⁴ of its 2 GHz MSS license cancellation.⁵

¹ Letter from Gregory C. Staple, Vinson & Elkins, Counsel for TMI, and Jonathan D. Blake, Covington & Burling, Counsel for TerraStar, to Donald Abelson, Chief, International Bureau, FCC (Apr. 19, 2005).

² Letter from Diane Cornell, CTIA, to Marlene H. Dortch, Secretary, FCC (May 19, 2005).

³ Letter from Suzanne Hutchings Malloy, ICO, to Donald Abelson, Chief, International Bureau, FCC (May 3, 2005).

⁴ Globalstar, Petition for Reconsideration, Memorandum Opinion and Order, *Emergency Application for Review and Request for Stay of Globalstar, L.P.*, File Nos. SAT-LOA-19970926-00151/52/53/54/56, *et al.* (filed July 26, 2004).

⁵ Memorandum Opinion and Order, *Emergency Application for Review and Request for Stay of Globalstar, L.P.*, 19 FCC Rcd 11548 (2004) (*declining to reverse* Memorandum Opinion and Order, *For Modification of License for a Mobile-Satellite Service System in the 2 GHz Band*, 18 FCC Rcd 1249 (2003)).

Globalstar agrees with TMI, TerraStar, and ICO⁶ that the 40 MHz of currently unassigned 2 GHz MSS spectrum must remain allocated to MSS. Despite CTIA's self-interested statements to the contrary, now, well before the completion deadlines for 2 GHz MSS systems, is not the appropriate time to consider whether to further strip the MSS industry of much needed spectrum⁷ and thus further hobble what the Commission itself has recognized promises to be an exceedingly valuable service to consumers and public safety providers. Given the unique consumer and public safety needs that only satellite communication services can meet, the Commission's recognition that MSS serves a valuable and needed service to emergency responders, law enforcement, and government agencies,⁸ and the next generation and ancillary terrestrial component ("ATC") plans of MSS providers, the public interest demands that the currently allocated 2 GHz spectrum remain available for MSS.

CTIA fails to offer any satisfactory reason why the Commission should consider further limiting the development of the 2 GHz MSS industry, particularly after it reallocated nearly half the originally allocated 2 GHz MSS spectrum to other services in 2003.⁹ In order for MSS to offer desirable services and continue to attract investment, the full amount of allocated 2 GHz spectrum is needed. Without this spectrum, next generation voice and data services would be limited, if not impossible, and even adequate call capacity could be jeopardized. Furthermore, decreased capacity would eliminate the likelihood that 2 GHz MSS systems can take advantage of ATC.

MSS is uniquely positioned to meet the demands of emergency responders, government agencies, and the U.S. military. For instance, during the upcoming tropical storm season, many emergency responders in the Caribbean and southeastern U.S. will rely on MSS to communicate during the terrestrial outages that often accompany these storms. MSS has also been widely relied on by the military during the recent conflicts in the Middle East. As Commissioner Copps recently pointed out, "[o]ver 80% of federal agencies are using satellites to communicate, from FEMA to the Coast Guard to our customs and border control agents. With satellites, our communications infrastructure is more resilient and more difficult to undermine."¹⁰ Without adequate spectrum, MSS cannot meet these important needs – needs that will otherwise go unmet.

⁶ See Letter from Gregory C. Staple, Vinson & Elkins, Counsel for TMI, and Jonathan D. Blake, Covington & Burling, Counsel for TerraStar, to Donald Abelson, Chief, International Bureau, FCC (Apr. 19, 2005); Letter from Suzanne Hutchings Malloy, ICO, to Donald Abelson, Chief, International Bureau, FCC (May 3, 2005); Letter from Gregory C. Staple, Vinson & Elkins, Counsel for TMI, and Jonathan D. Blake, Covington & Burling, Counsel for TerraStar, to Marlene H. Dortch, Secretary, FCC (May 24, 2005); Letter from Suzanne Hutchings Malloy, ICO to Marlene H. Dortch, Secretary, FCC (June 7, 2005).

⁷ See *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services*, 18 FCC Rcd 2223, ¶ 32 (2003).

⁸ See e.g., *Flexibility for the Delivery of Communications by Mobile Satellite Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, 18 FCC Rcd 1962 (2003).

⁹ See *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services*, 18 FCC Rcd 2223, ¶ 32 (2003).

¹⁰ Remarks of FCC Commissioner Michael J. Copps, SIA/SBCA Folger Library Dinner (Mar. 22, 2005).

Any reallocation of 2 GHz MSS spectrum would also unfairly harm Globalstar's 2 GHz MSS plans and prejudice its pending petition for reconsideration.¹¹ On July 26, 2004 Globalstar filed a petition for reconsideration¹² of the Commission's Order¹³ that declined to reverse the International Bureau's erroneous and unlawful cancellation of Globalstar's 2 GHz MSS license. Globalstar fully intends to pursue all remedies available to it to regain its 2 GHz license, and continues to plan for its next-generation 2 GHz MSS system. Reallocation or redistribution of any MSS spectrum before the fate of Globalstar's 2 GHz license has been finally determined would be wholly inappropriate.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Wm T. Lake". The signature is fluid and cursive, with the first name "Wm" and last name "Lake" clearly distinguishable.

William T. Lake
Counsel to Globalstar LLP

cc: Sam Feder
John Branscome
Paul Margie
Barry Ohlson
Donald Abelson
Rod Porter
Gardner Foster
Bruce Franca
Julias Knapp
David Furth
Uzoma Onyije
Blase Scinto
David Horowitz

¹¹ Globalstar, Petition for Reconsideration, Memorandum Opinion and Order, *Emergency Application for Review and Request for Stay of Globalstar, L.P.*, File Nos. SAT-LOA-19970926-00151/52/53/54/56, *et al.* (filed July 26, 2004).

¹² *Id.*

¹³ Memorandum Opinion and Order, *Emergency Application for Review and Request for Stay of Globalstar, L.P.*, 19 FCC Rcd 11548 (2004).